

---

**Introduced by Senator Cox**

February 24, 2009

---

An act to amend Section 602 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 284, as introduced, Cox. Trespass.

Existing law makes it unlawful for persons to engage in certain acts of trespass and punishes most trespasses by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding 6 months, or by both that fine and imprisonment.

This bill would make a nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 602 of the Penal Code is amended to  
2     read:  
3     602. Except as provided in paragraph (2) of subdivision (v),  
4     subdivision (x), and Section 602.8, every person who willfully  
5     commits a trespass by any of the following acts is guilty of a  
6     misdemeanor:  
7     (a) Cutting down, destroying, or injuring any kind of wood or  
8     timber standing or growing upon the lands of another.  
9     (b) Carrying away any kind of wood or timber lying on those  
10    lands.  
11    (c) Maliciously injuring or severing from the freehold of another  
12    anything attached to it, or its produce.

1 (d) Digging, taking, or carrying away from any lot situated  
2 within the limits of any incorporated city, without the license of  
3 the owner or legal occupant, any earth, soil, or stone.

4 (e) Digging, taking, or carrying away from land in any city or  
5 town laid down on the map or plan of the city, or otherwise  
6 recognized or established as a street, alley, avenue, or park, without  
7 the license of the proper authorities, any earth, soil, or stone.

8 (f) Maliciously tearing down, damaging, mutilating, or  
9 destroying any sign, signboard, or notice placed upon, or affixed  
10 to, any property belonging to the state, or to any city, county, city  
11 and county, town or village, or upon any property of any person,  
12 by the state or by an automobile association, which sign, signboard  
13 or notice is intended to indicate or designate a road, or a highway,  
14 or is intended to direct travelers from one point to another, or  
15 relates to fires, fire control, or any other matter involving the  
16 protection of the property, or putting up, affixing, fastening,  
17 printing, or painting upon any property belonging to the state, or  
18 to any city, county, town, or village, or dedicated to the public, or  
19 upon any property of any person, without license from the owner,  
20 any notice, advertisement, or designation of, or any name for any  
21 commodity, whether for sale or otherwise, or any picture, sign, or  
22 device intended to call attention to it.

23 (g) Entering upon any lands owned by any other person ~~whereon~~  
24 *on which* oysters or other shellfish are planted or growing; or  
25 injuring, gathering, or carrying away any oysters or other shellfish  
26 planted, growing, or on any of those lands, whether covered by  
27 water or not, without the license of the owner or legal occupant;  
28 or damaging, destroying, or removing, or causing to be removed,  
29 damaged, or destroyed, any stakes, marks, fences, or signs intended  
30 to designate the boundaries and limits of any of those lands.

31 (h) (1) Entering upon lands or buildings owned by any other  
32 person without the license of the owner or legal occupant, where  
33 signs forbidding trespass are displayed, and whereon cattle, goats,  
34 pigs, sheep, fowl, or any other animal is being raised, bred, fed,  
35 or held for the purpose of food for human consumption; or injuring,  
36 gathering, or carrying away any animal being housed on any of  
37 those lands, without the license of the owner or legal occupant; or  
38 damaging, destroying, or removing, or causing to be removed,  
39 damaged, or destroyed, any stakes, marks, fences, or signs intended  
40 to designate the boundaries and limits of any of those lands.

1 (2) In order for there to be a violation of this subdivision, the  
2 trespass signs under paragraph (1) must be displayed at intervals  
3 not less than three per mile along all exterior boundaries and at all  
4 roads and trails entering the land.

5 (3) This subdivision shall not be construed to preclude  
6 prosecution or punishment under any other provision of law,  
7 including, but not limited to, grand theft or any provision that  
8 provides for a greater penalty or longer term of imprisonment.

9 (i) Willfully opening, tearing down, or otherwise destroying  
10 any fence on the enclosed land of another, or opening any gate,  
11 bar, or fence of another and willfully leaving it open without the  
12 written permission of the owner, or maliciously tearing down,  
13 mutilating, or destroying any sign, signboard, or other notice  
14 forbidding shooting on private property.

15 (j) Building fires upon any lands owned by another where signs  
16 forbidding trespass are displayed at intervals not greater than one  
17 mile along the exterior boundaries and at all roads and trails  
18 entering the lands, without first having obtained written permission  
19 from the owner of the lands or the owner's agent, or the person in  
20 lawful possession.

21 (k) Entering any lands, whether unenclosed or enclosed by  
22 fence, for the purpose of injuring any property or property rights  
23 or with the intention of interfering with, obstructing, or injuring  
24 any lawful business or occupation carried on by the owner of the  
25 land, the owner's agent or by the person in lawful possession.

26 (l) Entering any lands under cultivation or enclosed by fence,  
27 belonging to, or occupied by, another, or entering upon uncultivated  
28 or unenclosed lands where signs forbidding trespass are displayed  
29 at intervals not less than three to the mile along all exterior  
30 boundaries and at all roads and trails entering the lands without  
31 the written permission of the owner of the land, the owner's agent  
32 or of the person in lawful possession, and

33 (1) Refusing or failing to leave the lands immediately upon  
34 being requested by the owner of the land, the owner's agent or by  
35 the person in lawful possession to leave the lands, or

36 (2) Tearing down, mutilating, or destroying any sign, signboard,  
37 or notice forbidding trespass or hunting on the lands, or

38 (3) Removing, injuring, unlocking, or tampering with any lock  
39 on any gate on or leading into the lands, or

40 (4) Discharging any firearm.

1 (m) Entering and occupying real property or structures of any  
2 kind without the consent of the owner, the owner's agent, or the  
3 person in lawful possession.

4 (n) Driving any vehicle, as defined in Section 670 of the Vehicle  
5 Code, upon real property belonging to, or lawfully occupied by,  
6 another and known not to be open to the general public, without  
7 the consent of the owner, the owner's agent, or the person in lawful  
8 possession. This subdivision shall not apply to any person described  
9 in Section 22350 of the Business and Professions Code who is  
10 making a lawful service of process, provided that upon exiting the  
11 vehicle, the person proceeds immediately to attempt the service  
12 of process, and leaves immediately upon completing the service  
13 of process or upon the request of the owner, the owner's agent, or  
14 the person in lawful possession.

15 (o) Refusing or failing to leave land, real property, or structures  
16 belonging to or lawfully occupied by another and not open to the  
17 general public, upon being requested to leave by (1) a peace officer  
18 at the request of the owner, the owner's agent, or the person in  
19 lawful possession, and upon being informed by the peace officer  
20 that he or she is acting at the request of the owner, the owner's  
21 agent, or the person in lawful possession, or (2) the owner, the  
22 owner's agent, or the person in lawful possession. The owner, the  
23 owner's agent, or the person in lawful possession shall make a  
24 separate request to the peace officer on each occasion when the  
25 peace officer's assistance in dealing with a trespass is requested.  
26 However, a single request for a peace officer's assistance may be  
27 made to cover a limited period of time not to exceed 30 days and  
28 identified by specific dates, during which there is a fire hazard or  
29 the owner, owner's agent or person in lawful possession is absent  
30 from the premises or property. In addition, a single request for a  
31 peace officer's assistance may be made for a period not to exceed  
32 six months when the premises or property is closed to the public  
33 and posted as being closed. However, this subdivision shall not  
34 be applicable to persons engaged in lawful labor union activities  
35 which are permitted to be carried out on the property by the  
36 California Agricultural Labor Relations Act, Part 3.5 (commencing  
37 with Section 1140) of Division 2 of the Labor Code, or by the  
38 National Labor Relations Act. For purposes of this section, land,  
39 real property, or structures owned or operated by any housing  
40 authority for tenants as defined under Section 34213.5 of the Health

1 and Safety Code constitutes property not open to the general public;  
2 however, this subdivision shall not apply to persons on the premises  
3 who are engaging in activities protected by the California or United  
4 States Constitution, or to persons who are on the premises at the  
5 request of a resident or management and who are not loitering or  
6 otherwise suspected of violating or actually violating any law or  
7 ordinance.

8 (p) Entering upon any lands declared closed to entry as provided  
9 in Section 4256 of the Public Resources Code, if the closed areas  
10 shall have been posted with notices declaring the closure, at  
11 intervals not greater than one mile along the exterior boundaries  
12 or along roads and trails passing through the lands.

13 (q) Refusing or failing to leave a public building of a public  
14 agency during those hours of the day or night when the building  
15 is regularly closed to the public upon being requested to do so by  
16 a regularly employed guard, watchman, or custodian of the public  
17 agency owning or maintaining the building or property, if the  
18 surrounding circumstances would indicate to a reasonable person  
19 that the person has no apparent lawful business to pursue.

20 (r) Knowingly skiing in an area or on a ski trail which is closed  
21 to the public and which has signs posted indicating the closure.

22 (s) Refusing or failing to leave a hotel or motel, where he or  
23 she has obtained accommodations and has refused to pay for those  
24 accommodations, upon request of the proprietor or manager, and  
25 the occupancy is exempt, pursuant to subdivision (b) of Section  
26 1940 of the Civil Code, from Chapter 2 (commencing with Section  
27 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For  
28 purposes of this subdivision, occupancy at a hotel or motel for a  
29 continuous period of 30 days or less shall, in the absence of a  
30 written agreement to the contrary, or other written evidence of a  
31 periodic tenancy of indefinite duration, be exempt from Chapter  
32 2 (commencing with Section 1940) of Title 5 of Part 4 of Division  
33 3 of the Civil Code.

34 (t) Entering upon private property, including contiguous land,  
35 real property, or structures thereon belonging to the same owner,  
36 whether or not generally open to the public, after having been  
37 informed by a peace officer at the request of the owner, the owner's  
38 agent, or the person in lawful possession, and upon being informed  
39 by the peace officer that he or she is acting at the request of the  
40 owner, the owner's agent, or the person in lawful possession, that

1 the property is not open to the particular person; or refusing or  
2 failing to leave the property upon being asked to leave the property  
3 in the manner provided in this subdivision.

4 This subdivision shall apply only to a person who has been  
5 convicted of a violent felony, as specified in subdivision (c) of  
6 Section 667.5, committed upon the particular private property. A  
7 single notification or request to the person as set forth above shall  
8 be valid and enforceable under this subdivision unless and until  
9 rescinded by the owner, the owner's agent, or the person in lawful  
10 possession of the property.

11 (u) (1) Knowingly entering, by an unauthorized person, upon  
12 any airport or passenger vessel terminal operations area if the area  
13 has been posted with notices restricting access to authorized  
14 personnel only and the postings occur not greater than every 150  
15 feet along the exterior boundary, to the extent, in the case of a  
16 passenger vessel terminal, as defined in subparagraph (B) of  
17 paragraph (3), that the exterior boundary extends shoreside. To  
18 the extent that the exterior boundary of a passenger vessel terminal  
19 operations area extends waterside, this prohibition shall apply if  
20 notices have been posted in a manner consistent with the  
21 requirements for the shoreside exterior boundary, or in any other  
22 manner approved by the captain of the port.

23 (2) Any person convicted of a violation of paragraph (1) shall  
24 be punished as follows:

25 (A) By a fine not exceeding one hundred dollars (\$100).

26 (B) By imprisonment in the county jail not exceeding six  
27 months, or by a fine not exceeding one thousand dollars (\$1,000),  
28 or both, if the person refuses to leave the airport or passenger vessel  
29 terminal after being requested to leave by a peace officer or  
30 authorized personnel.

31 (C) By imprisonment in the county jail not exceeding six  
32 months, or by a fine not exceeding one thousand dollars (\$1,000),  
33 or both, for a second or subsequent offense.

34 (3) As used in this subdivision the following definitions shall  
35 control:

36 (A) "Airport operations area" means that part of the airport used  
37 by aircraft for landing, taking off, surface maneuvering, loading  
38 and unloading, refueling, parking, or maintenance, where aircraft  
39 support vehicles and facilities exist, and which is not for public  
40 use or public vehicular traffic.

1 (B) “Passenger vessel terminal” means only that portion of a  
2 harbor or port facility, as described in Section 105.105(a)(2) of  
3 Title 33 of the Code of Federal Regulations, with a secured area  
4 that regularly serves scheduled commuter or passenger operations.  
5 For the purposes of this section, “passenger vessel terminal” does  
6 not include any area designated a public access area pursuant to  
7 Section 105.106 of Title 33 of the Code of Federal Regulations.

8 (C) “Authorized personnel” means any person who has a valid  
9 airport identification card issued by the airport operator or has a  
10 valid airline identification card recognized by the airport operator,  
11 or any person not in possession of an airport or airline identification  
12 card who is being escorted for legitimate purposes by a person  
13 with an airport or airline identification card. “Authorized  
14 personnel” also means any person who has a valid port  
15 identification card issued by the harbor operator, or who has a  
16 valid company identification card issued by a commercial maritime  
17 enterprise recognized by the harbor operator, or any other person  
18 who is being escorted for legitimate purposes by a person with a  
19 valid port or qualifying company identification card.

20 (D) “Airport” means any facility whose function is to support  
21 commercial aviation.

22 (v) (1) Except as permitted by federal law, intentionally  
23 avoiding submission to the screening and inspection of one’s  
24 person and accessible property in accordance with the procedures  
25 being applied to control access when entering or reentering a sterile  
26 area of an airport or passenger vessel terminal, as defined in Section  
27 171.5.

28 (2) A violation of this subdivision that is responsible for the  
29 evacuation of an airport terminal or passenger vessel terminal and  
30 is responsible in any part for delays or cancellations of scheduled  
31 flights or departures is punishable by imprisonment of not more  
32 than one year in a county jail if the sterile area is posted with a  
33 statement providing reasonable notice that prosecution may result  
34 from a trespass described in this subdivision.

35 (w) Refusing or failing to leave a battered women’s shelter at  
36 any time after being requested to leave by a managing authority  
37 of the shelter.

38 (1) A person who is convicted of violating this subdivision shall  
39 be punished by imprisonment in a county jail for not more than  
40 one year.

(2) The court may order a defendant who is convicted of violating this subdivision to make restitution to a battered woman in an amount equal to the relocation expenses of the battered woman and her children if those expenses are incurred as a result of trespass by the defendant at a battered women's shelter.

(x) (1) Knowingly entering or remaining in a neonatal unit, maternity ward, or birthing center located in a hospital or clinic without lawful business to pursue therein, if the area has been posted so as to give reasonable notice restricting access to those with lawful business to pursue therein and the surrounding circumstances would indicate to a reasonable person that he or she has no lawful business to pursue therein. Reasonable notice is that which would give actual notice to a reasonable person, and is posted, at a minimum, at each entrance into the area.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) As an infraction, by a fine not exceeding one hundred dollars (\$100).

(B) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or both, if the person refuses to leave the posted area after being requested to leave by a peace officer or other authorized person.

(C) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or both, for a second or subsequent offense.

(D) If probation is granted or the execution or imposition of sentencing is suspended for any person convicted under this subdivision, it shall be a condition of probation that the person participate in counseling, as designated by the court, unless the court finds good cause not to impose this requirement. The court shall require the person to pay for this counseling, if ordered, unless good cause not to pay is shown.

(y) Except as permitted by federal law, intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access when entering or reentering a courthouse or a city, county, city and county, or state building if entrances to the courthouse or the city, county, city and county, or state building have been posted with a statement providing reasonable notice



1 that prosecution may result from a trespass described in this  
2 subdivision.

O